REMARKS/ARGUMENTS

This Reply is in response to the Office Action mailed on November 17, 2005. Claims 1-5 and 8-14 remain in this application. Reconsideration of the above-identified application, in view of the above amendments and the following remarks, is respectfully requested.

Claims 1, 4, 5, 8, 9, and 10-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,615,691 to Hakim ("Hakim") in view of U.S. Patent No. 4,148,460 to Kinsler ("Kinsler"). The Examiner maintains that Hakim teaches a cerebrospinal fluid shunt having an adjustable valve 14. The Examiner admits that Hakim fails to teach a resistance system having a circular set of passages of varying resistance to flow. Kinsler, according to the Examiner, teaches a multi-port fluid flow control valve with a flow control device comprising a circular disk 33 and a series of openings 29 of varying cross-sectional area by allowing a user to select the desired resistance by rotating disk 33 to align the desired jet 29 with the outlet passage 27. The Examiner concludes that it would have been obvious to one of ordinary skill in the art to substitute Kinsler's adjustable valve for Hakim's valve to minimize wear and tear on the valve.

Claims 2, 3, 6, and 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,615,691 to Hakim ("Hakim") in view of U.S. Patent No. 4,148,460 to Kinsler ("Kinsler") and further in view of U.S. Patent No. 3,170,483 to Milroy ("Milroy"). The Examiner is relying on Milroy for the teaching of a regulator valve with an inlet 70, outlet 72, and a flow regulator 74. The Examiner also states that the throttling means comprise a series of tubes 62 that traverse the axis of the valve housing 80. The Examiner states that variations in both length and diameter of tubes 62 provided varying resistance to flow through the tubes, and refers to column 5, lines 40-65, Figure 6 of Milroy's disclosure. The Examiner concludes that it would have been obvious to alter fluid resistance through the passages of the Hakim device as modified by Kinsler's teachings to further vary the diameter or length of the passages based on Milroy's teachings.

With regard to claims 6 and 7 the Examiner concludes that it would have been obvious to one of ordinary skill in the art to select lengths of the passages to achieve a desired flow resistance because it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art.

Claim 14 stands rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,615,691 to Hakim ("Hakim") in view of U.S. Patent No. 4,148,460 to Kinsler ("Kinsler") and further in view of U.S. Patent No. 6,264,625 to Rubenstein et al ("Rubenstein").

Claims 1, 11 and 14 have been amended above to essentially include the limitations of dependent claim 6. More specifically, the claims have been amended to recite that at least one of the lengths and the internal diameters of the passages are chosen in such a manner as to define the total resistance to cerebrospinal fluid flow of a corresponding shunt system and to cover a range of resistance to flow of 0 - 50 mm Hg/ml/min.

PAGE 8/9 * RCVD AT 4/17/2006 4:49:31 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/5 * DNIS:2738300 * CSID:7325245575 * DURATION (mm-ss):02-48

The Examiner's reliance on Milroy is not understood by Applicant. The Examiner refers to Milroy's specification column 5, lines 40-65, Figure 6, which is an embodiment that uses a plurality of paths or passages 86 in block 84 that is made of a plurality of laminations. Milroy's tubes 62 are used in the embodiment of Figures 1-4. However, in either embodiment, the flow of fluid goes through multiple passages at the same time. This is in direct contrast with the present invention, where the fluid flow is guided to one *selected passage* to select the desired resistance of the valve within the recited range of 0 - 50 mm Hg/ml/min. Applicant's maintain that the references of record fail to teach or suggest such a structure of having the fluid flow through one selected passage to achieve a desired resistance within a recited range, as required by the claims of the present invention.

In addition, with respect to claims 6 and 7, the Examiner argues that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. Applicant's respectfully disagree. But the prior art fails to teach or suggest any range, and, of course, fails to teach or suggest the recited range of 0 - 50 mm Hg/ml/min. Thus, how could one of ordinary skill in the art discover any working range?

For the record, Applicant's are making the USPTO aware that a claim corresponding to amended claim 1 has been allowed by the European Patent Office in EP Patent No. 1 386 634 B1.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Dated: April 17, 2006

PAGE 9/9 * RCVD AT 4/17/2006 4:49:31 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/5 * DNIS:2738300 * CSID:7325245575 * DURATION (mm-ss):02-48